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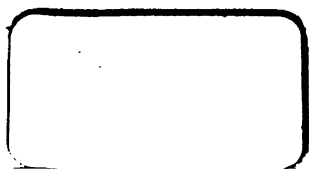
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THE JAPANESE FAMILY,

BY

REV. J. H. DEFOREST, D.D.,

SENDAI.

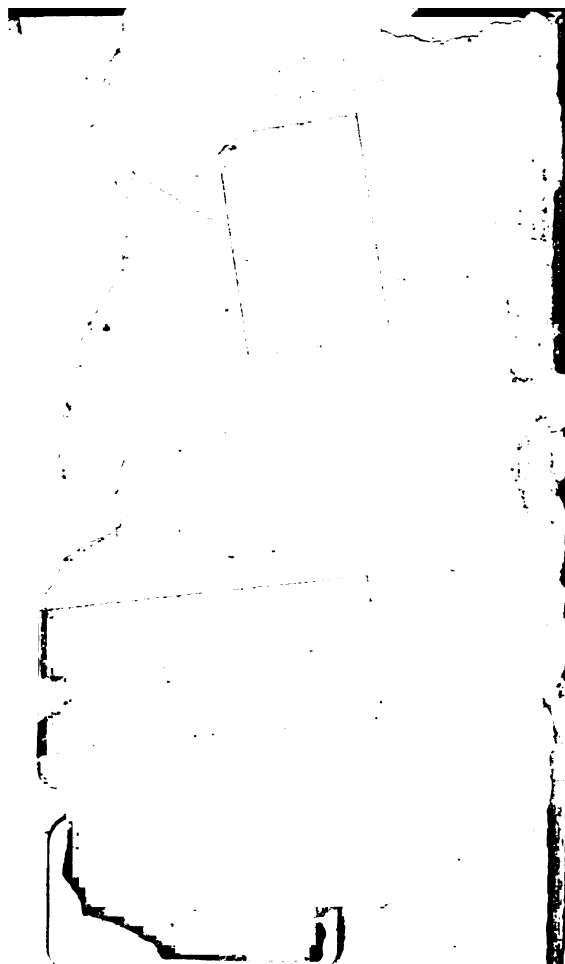
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THE JAPANESE FAMILY.

By Rev. J. H. DeForest, D.D., Sendai.

At last, after twenty years of earnest deliberation, and with much opposition, the important section of the new Civil Code concerning the Family came into operation on July 16th, 1898.

How does the Japanese Family differ from that of the West? Wherein consists its strong conserving power? What are its defects? What can be learned of Japanese customs and of ethics from this code? What is the bearing of these laws on foreigners and their families since the abolition of extritoriality? Japan now stands as the political equal of Western nations; has there been so great an advance in family life as to make

Japan socially equal to Western societies? A brief study of one hundred and thirty pages of the new code will put us on the track of a reply to these questions.

It must be premised that the Family is a center of the moral power of the nation quite as much as is the Imperial House. In spite of glaring defects, the reverence for ancestors; the dread of the extinction of a house; the strong sentiment by which members of a Family are held together in mutual responsibility; and the noble devotion of wives to husbands and of children to parents; all have combined religiously and morally to conserve and develop the nation. It is the virtues of family life as well as the spirit of patriotism that have made it possible for Japan to adopt and assimilate so rapidly the fruits of Western civilization.

Now one of the first things that attracts attention in the new code is

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the use of words with meanings widely different from those we commonly attach to them. Take, for instance, the word *adoption*. With us its almost universal meaning is the taking of some child to bring up and treat as one's own. It generally is an expression of benevolence going out in love of children. But it is comparatively rare in Western nations. You can hardly find one adopted boy in a college of five hundred students, or one in a town of three thousand people. How different here! The universal meaning here is the taking of a boy or full-grown man to be the husband of the daughter of the house to which he goes, or the taking of a girl or young woman to be the wife of the son in that house. Instead of benevolence it is business. Instead of taking in an orphan or destitute child to support, it is the taking of the children of prosperous parents, if possible, with a view to being sup-

ported by them later on in life, but especially with reference to the perpetuation of the family line. Hence in the Government schools and in the army are large numbers of adopted young men bearing the names of their future wives. Adoption has very important bearings on marriage, divorce, succession to heir-ship, and refers far more to adults than to children. It takes forty articles of ten pages to cover the laws on this one word, while marriage is treated in only twenty-eight articles of seven pages. The signal importance of this term comes out yet more clearly in the fact that the judicial dissolution of adoption is hedged in by almost precisely the same conditions as surround judicial divorce.

A concrete example will perhaps fix some of these facts better in mind:— A physician and his wife had no children, and his "house" that is, his family line, was threatened with ex-

tion. So he adopted a bright lad of a good family in which were other sons, and sent him through the Middle, Higher and University courses. Meantime a beautiful girl was adopted from a suitable family wherein were other children left to maintain that line. After the young man's graduation I was invited to perform the marriage ceremony for these two adopted children, and the delight of the father (?) was something extraordinary. "All my anxiety is now gone. I have established my house!" he exclaimed.

This is almost exactly as it was in Rome two thousand years ago:— "It might happen that a marriage was fruitless, or that a man saw all his sons go to the grave before him, and that the *pater familias* had thus to face the prospect of extinction of his family, and of his own descent to the tomb without posterity to make him blessed. To obviate so dire a mis-

fortune he resorted to the practice of adoption". That foreigners do not do this now is a surprise to Japanese who hear it for the first time. A Japanese gentleman, a great admirer of Washington once inquired of me ;-- " Why did Washington permit the extinction of his house ? Why did he not adopt some young man of good family and so save his line ?" He felt that our first President had almost failed in his moral obligations by neglecting this seemingly important step. No one can understand the Japanese Family unless he is familiar with the deep aversion to the extinction of a house and the means of averting it by adoption even of men and women, or of a whole family.

It is highly probable that adoption in Japan will decrease as it has done in the West. That there is a kind of natural dislike of it is shown from the familiar proverb that if a young

man has a peck of beans, he'd better not become an adopted son. (*Isshō no mame wo motaba yōshi ni wa naranu.*) Since the same forces that undermined it in the West are at work now in Japan, it is hardly rash to expect that similar results will appear. The incoming of Christian thought will gradually replace the custom of ancestral worship with the more rational worship of the One Father, and will strengthen the love of true and pure Family lines, while lines arbitrarily continued by the borrowing of outside blood will fail to be regarded as true lines. The growing sense of personality, and the introduction of wills into the new code, will tend towards the same result.

Marriage here differs from that of Western nations. Here it is simply a contract in which a man goes to the bride's house and takes her name almost as easily as the bride goes to his house to take his name. But it is

an affair not of two individuals so much as of two families, and it is surrounded by customs that have even more strength than the new laws. The consent of parents is essential, but the code has wisely put a limit to parental authority by allowing the man of thirty and the woman of twenty-five to marry regardless of the parents' consent. Hence the vast majority of marriages is that of minors and is under parental control. Marriage "takes effect upon its notification to the registrar by the parties concerned and two witnesses". The wording of this law suggests that there are marriages that don't *take effect*. This is just the difference between a Japanese marriage and one in the West. Here the ceremonial marriage takes place with no reference whatever to its legality. The families concerned celebrate the occasion openly and the young couple live together as man and wife until it is convenient

to have it “take effect”, and then the public office is notified that such and such persons are husband and wife, which notification constitutes the legal marriage. We foreigners are always deceiving ourselves by thinking that if the ceremony is open and society recognizes the pair as married, it must be legal. There are large numbers in every considerable town who pass as husband and wife yet have no legal status whatever as such.

Even among the Christians and also among evangelists are some who are in this *dōkyū* (living together) condition, and it never occurs to the uninitiated foreign missionary that such are not truly married. I was called on to attend the funeral of a Christian sixty years old, and learned that “his wife” had a different name. She too is a Christian. On inquiring into the matter, I found they were so related to their respective houses that they could not easily be legally marri-

ed, and so had only taken the first step—ceremonial marriage. I recently asked a young man, a member of the church, if he had had his wife registered as his, and he replied with regrets that, though he had tried again and again, he could not get his relative who was head of the house to consent. In another family there were two children, a boy and a girl. The boy, of course, was expected to become the head of the house, while the girl was engaged to the heir of another house. Everything was satisfactory, but the death of the brother threw this engagement into confusion, for it left his sister as the only dependence of the house for the perpetuation of the line. To let her go as was agreed upon would be the extinction of her house. Every effort was therefore made to induce the intended husband to give up his house in favor of his brothers, and enter her house as heir, and take her name.

Though both parties were excellently adapted to each other by long acquaintance, and were over the legal age, he refused to leave his house, and her parents stubbornly declined to let their only child go to another house even though she were of age. They tried to make her accept another man, but she was true to her first love. So at last, after prolonged consultations and vast annoyances and months of waiting, she was *lent* to the man to whom she was engaged, and the ceremonial wedding was celebrated with much publicity. There has been no legal marriage, and will not be until a child is born, which will legally belong to her house. By giving up this child to become the heir of her house the way will be open for registration as husband and wife, and this with the consent, much longed for, of her parents.

Any one who inquires will find a large proportion of these marriages.

I met, not long since, a woman "divorced", and unwilling to live with the man who beat her and tore out her hair. "If he did such things", said I, "why don't you get a judicial divorce?" And the reply was, "O, but we were never legally married." "How long have you lived together", I inquired. "Eleven years". "Then you have children?" "Yes, one girl eleven years old". When I replied, "I'm sorry the little girl must grow up an illegitimate child", she said, "O no, we had her registered as the daughter of her grand-mother. She's all right".

A man once introduced to several Christians and to me a woman as his wife, but he was only living with her, while his true wife and two children lived in another house.

These things should be thoroughly known by missionaries and pastors and evangelists. The little Church of Japan must not fail to give positive

light on the sacredness of marriage. One of the great duties resting on Christians is to make the ceremonial and legal marriages one and the same thing, not two very different things. And this can be done simply by having the register of the one who goes to the other's house changed on the same day (or before) the marriage ceremony takes place.

Concubinage comes next. It is one of the "burning problems" of new Japan. It must be said to the glory of this people that polygamy never has been established. Concubinage, however, has had a limited and rather honorable place. It was both an emolument of rank and in cases of childless parents a safe-guard of the family line. Now it so happened that the incoming of Western civilization caught the upper classes entangled in this system. The living heads to-day of some of the noblest houses in the Empire, from the throne down, are not

the children of the legal wife, but of concubines. But it would be as cruel and unjust to lay this up against Japan as it would be to besmear Old Testament heroes for like actions. It cannot be denied, however, that with the greater light that has come to Japan, this sin, instead of being checked, has spread. For with the abolition of class privileges and the incoming of one law for all, wealthy farmers and merchants, who were formerly forbidden this luxury, have to a considerable extent gone into the concubine business. So that the evil cannot be remedied in a day. It took eight years of discussion to bring about the abolition of torture and to establish open courts of justice, for which splendid action Western nations have rewarded Japan with equal treaties. But concubinage is a more stubborn evil. Enlightened Japan knows, however, that this evil must go if she is to become the social equal

of Western peoples, and we are glad to say the good fight has already begun. The year of '98 will be memorable in the moral history of modern Japan as the one in which the forward movement against concubinage was earnestly taken up. The press had long and serious articles well calculated to arouse something of a national conscience. The great and popular Fukuzawa, materialist and utilitarian as he is in his philosophy, is a most powerful champion of the purity of the home. His witty and cutting words have gone all through the land, affirming that female education is wholly inadequate to reform society, and that the main root of social evils lies in concubinage and the corrupting *geisha*. No matter where it cuts, he puts his whole soul in the affirmation that the axe must be laid at the root-evil.*

* Mr. Fukuzawa's little pamphlet, *Ukiyo Dan*, (5 sen) should be read by all who can read Japanese.

+ Literally vice of; they are really all *Ukiyo Dan* + dangerous

The great difficulty Japan has to deal with is the continuity of the Imperial Line. Conservatives like Mr. Otsuki Fumihiko feel that the time has come to openly oppose Christianity on the ground that it insists on monogamy, and the success of this teaching would imperil the Imperial Line. The recent strangely intolerant regulations of the Educational Department aimed at Christian schools are freely supposed to be owing to this conservative fear of monogamic teachings. We have the greatest admiration for this unique Imperial Line and also the deepest sympathy with those who are full of longings to retain it. We pray that it may remain unbroken for ages to come. The world's history will be the richer for one such fact. But we do not believe the monogamic principle would imperil the Line nearly so much as the attempt to continue it by methods that the growing conscience of the people and

of the whole civilized world cannot approve.

But this is not the place to call attention to the moral awakening that is coming over Japan, only as it is necessary to understand this significant fact, that the framers of the new family law, though themselves to some extent having mixed families, refused to have the word *concubine* in the new laws, just as the framers of our constitution would not allow the word *slavery* to disfigure a document so full of liberty, although some of the signers were slave holders. This is a very great advance on the Confucian ethics of the Tokugawa period.

Although the code does not recognize concubines, it has to provide for their results by recognizing two kinds of illegitimate children, and by leaving the door widely open for them to acquire legitimacy. The children of concubines are called "natural children of a married man", the other

kind being children of an unmarried man. Either kind of father can give his natural child a status in his family by simply acknowledging the child at the registrar's office. But the concubine's child can only inherit one half as much as the legitimate child. Natural children here, as in the West, are legitimated by the subsequent marriage of the parents.

As to the serious matter of divorce, the law offers little or no resistance to it, the first and almost universal method being by consent:— "The husband and wife may effect a divorce by mutual consent". In this quiet manner, the woman goes back into her former family leaving the children with the father, or, in case the adopted man is divorced, he withdraws to his former home, the children belonging by right to the mother, that is, to the house in which they were born and registered.

The second method is called judi-

cial divorce, and may be resorted to in case either party refuses the more quiet settlement. That the wife can apply to the courts for divorce is a large advance in the recognition of woman's rights, but it is a rare woman who would thus publicly proceed against her husband. The legal causes for divorce are very much like those of Western states with the one notable exception that, in case of adultery, the woman alone can be divorced. It will be a great social gain towards purity when Japan's laws recognize the same standard of chastity for the man as for the woman.

As to the effect of these new laws upon foreigners residing in Japan, marriage and divorce are governed by the law of the husband's country. Generally speaking, "family relations, and rights and duties arising therefrom, are governed by the law of the nationality of the persons concerned." But in case a foreigner is adopted by

a Japanese as his son-in-law, and becomes head of the house, the effect of such a marriage is governed by Japanese law. Thus it appears that these laws have no especial bearing on foreigners, unless the alien becomes a naturalized citizen, or marries into a Japanese house.

On the whole this code gives the outside world an intelligible view of family institutions in Japan. To those acquainted with feudal times, it shows a considerable emancipation of minors and women, and a diminution of parental authority which used, in theory and often in practice, to be despotic. The determined avoidance of the term *concubine* paves the way for the complete abolition of the custom. The provision, however, that makes it easy for a man and woman to live together without legal marriage, and that puts marriage on the level of a contract that can be broken by mutual consent, that, in short, regards

marriage and divorce mainly as affairs that concern only the families directly concerned, is not strong enough to stand the strain of modern social transitions and a high civilization. Japan has the worst record of all the civilized nations of the earth for its amazing proportion of divorces, and the next worst is Christian United States, with its annual record of 30,000 divorces in a population of 70,000,000. This rate is justly regarded as a peril to domestic institutions. But Japan's 40,000,000 have 110,000 divorces, or seven times as many as we have. What this shows may be left for Japan's consideration and action, in which she has the profound sympathy of all who know the almost infinite difficulties and perplexities that surround the problems of marriage and divorce.

Note.—Those interested in the study of this question will find a most valuable essay on it by Mr. J.H. Gubbins of H.B.M.'s Legation in Japan, in his translation of the Civil Code of Japan, Part II.



